



JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
UNEMPLOYMENT INSURANCE AGENCY
DEPARTMENT OF LABOR & ECONOMIC GROWTH
DAVID C. HOLLISTER, DIRECTOR
DAVID A. PLAWECKI, DEPUTY DIRECTOR

SHARON M. BOMMARITO
DIRECTOR
UNEMPLOYMENT
INSURANCE AGENCY

January 12, 2006

The Honorable Jason Allen, Chair
Senate Commerce & Labor Committee

The Honorable Robert Gosselin, Chair
House Employment Relations, Training,
& Safety Committee

The Honorable Valde Garcia, Chair
Senate Appropriations Subcommittee on
Commerce, Labor & Economic Development

The Honorable Jack Brandenburg, Chair
House Appropriations Subcommittee on
Economic Development

Enclosed please find the annual report the Unemployment Insurance Agency is required to submit pursuant to Section 22b(f) of the *Michigan Employment Security Act* being Section 421.22b of the *Michigan Compiled Laws*.

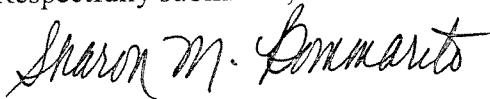
(f) Beginning January 1, 2006, the unemployment insurance agency shall provide an annual written report to the chairpersons of the standing committees and the appropriations subcommittees of the house and senate having jurisdiction over legislation pertaining to unemployment compensation. The report shall include all of the following information in a form that does not identify individual employers:

- (i) The procedures the agency has adopted to prevent SUTA dumping.
- (ii) The number of SUTA dumping investigations opened during the year.
- (iii) The average length of time to resolve a SUTA dumping investigation and the number of investigations pending for more than 6 months and for more than 1 year.
- (iv) The number of cases brought before an administrative law judge or the board of review and the agency's success rate in those cases.
- (v) The amount of money recovered as a result of implementing the provisions of this section.
- (vi) The amount of the balance or deficit in the unemployment compensation fund.
- (vii) The estimated fiscal impact of SUTA dumping on the unemployment compensation fund balance and the factual basis for the estimate.
- (viii) The number of full-time employees assigned to, and the number of employee hours devoted to, SUTA dumping prevention, investigation, and remediation.

January 12, 2006

- (ix) The number of SUTA dumping investigations that involved the transfer of employees to or from an employee leasing company.
- (x) The number of investigations in which an employee leasing company was found to have participated in SUTA dumping.
- (xi) The number of employee leasing companies operating in Michigan.

Respectfully submitted,



Sharon M. Bommarito, Director
Unemployment Insurance Agency
Department of Labor and Economic Growth

Enclosure

cc: Governor Jennifer M. Granholm
Senator Mark Schauer
Senator Michael Prusi
Representative Steve Bieda
Representative Chris Kolb



State Unemployment Tax Act (SUTA) Dumping Annual Report

January 2006

TABLE OF CONTENTS

(i)	The procedures the agency has adopted to prevent SUTA dumping.....	2
	Employer Communication and Education Procedure.....	3
	Detection and Enforcement Procedure.....	5
(ii)	The number of SUTA dumping investigations opened during the year.....	8
(iii)	The average length of time to resolve a SUTA dumping investigation and the number of investigations pending for more than 6 months and for more than 1 year.....	8
(iv)	The number of cases brought before an administrative law judge or the board of review and the agency's success rate in those cases.....	8
(u)	The amount of money recovered as a result of implementing the provisions of this section.....	9
(ui)	The amount of the balance or deficit in the unemployment compensation fund.....	9
(uü)	The estimated fiscal impact of SUTA dumping on the unemployment compensation fund balance and the factual basis for the estimate.....	9
(uüü)	The number of full-time employees assigned to, and the number of employee hours devoted to, SUTA dumping prevention, investigation, and remediation.....	9
(ix)	The number of SUTA dumping investigations that involved the transfer of employees to or from an employee leasing company.....	9
(x)	The number of investigations in which an employee leasing company was found to have participated in SUTA dumping.....	10
(xi)	The number of employee leasing companies operating in Michigan.....	10

- (i) The procedures the agency has adopted to prevent SUTA dumping.

See attached pages 3-7.

DEPARTMENT OF LABOR & ECONOMIC GROWTH
UNEMPLOYMENT INSURANCE AGENCY

SUTA Dumping

Employer Communication and Education Procedure

A. General Information

Through education, detection and enforcement, the Agency actively prevents SUTA Dumping. The Agency takes the following steps to communicate with and educate the employer community on the amendments to the Michigan Employment Security (MES) Act and State Unemployment Tax Act (SUTA) Dumping:

1. Communication with Employer Community

The Agency shall develop informational materials to educate employers regarding the amendments to the Michigan Employment Security (MES) Act and State Unemployment Tax Act (SUTA) Dumping and mail the information to employers. The information may be distributed through the Quarterly Tax Report mailings, special mailings, meetings and educational forums with the employer community.

2. UIA Website

The Agency shall maintain a section devoted to SUTA Dumping education on its website. The website shall include: state legislation, federal information, *Employer Advisor* articles, Frequently Asked Questions, informational letters sent to all employers, news releases related to SUTA Dumping, a fact sheet on SUTA Dumping, as well as a phone number to the Employer Customer Relations office for additional information on SUTA Dumping. The Agency's website is located at www.michigan.gov/uia.

3. Employer Advisor

To provide on-going communication regarding SUTA Dumping, the Agency will publish articles in the *Employer Advisor* which is a quarterly newsletter mailed to the over 215,000 active employers in the state of Michigan.

4. Speakers' Bureau

The Agency's Speakers' Bureau shall make available Agency staff for presentations. Any company or organization can request a speaker by contacting the Agency's Speakers' Bureau Coordinator at (313) 456-2907.

SUTA Dumping Employer Communication and Education Procedure

5. Employer Handbook

The Agency's *Employer Handbook*, which is a comprehensive guide for employers, shall be revised to include updated information on the SUTA Dumping provisions of the Michigan Employment Security (MES) Act and useful information about how to avoid SUTA Dumping.

6. Updated Forms

Treasury Form 518, "Michigan Business Taxes Registration Booklet," shall be updated. UIA Schedule B shall be made available to employers as a stand-alone form and it shall be available on the Agency's website (www.michigan.gov/uia).

7. Seminars

The Agency shall conduct a series of seminars around the state entitled "An Overview of SUTA Dumping." The UIA's SUTA Dumping seminars will be designed to acquaint employers with the recent amendments to the Michigan Employment Security (MES) Act, and shall include information on SUTA Dumping, how to avoid it, and the effects this practice has on the Unemployment Insurance Trust Fund in Michigan. The Agency shall solicit input from the employer community on recommendations for seminar agenda items.

8. Quality Assurance

The Agency shall conduct quality assurance review throughout the process to improve communication with the employer community and solicit recommendations to improve service to the Agency's customers.



SUTA Dumping Detection and Enforcement Procedure

- 1) Referrals for possible SUTA Dumping are received from the SUTA Dumping Detection System software; external sources such as other employers, claimants, and other states; and internal sources, including the Bureau of Labor Market Information and Strategic Initiatives (LMI), Attorney General's Office, other state agencies, and the Unemployment Insurance Agency's (UIA) Claimant Customer Relations, Employer Customer Relations, Problem Resolution Offices, Remote Initial Claims Centers (RICCs) and Benefit Fraud Detection Unit.
- 2) Based on Agency review of the referrals, a decision is made that either a SUTA Dumping investigation is needed or that no case of SUTA Dumping exists.
- 3) If a SUTA Dumping investigation is considered necessary, documentation related to the transactions, ownership, transfers and correspondence is prepared for the case. Documentation is obtained from internal Agency records including wage records, tax filings, employer registration reports, employer correspondence, and filings with the related Corporations and Securities Bureau of the Department of Labor & Economic Growth. All known accounts and companies are reviewed.
- 4) A referral is forwarded to the UIA's Field Audit Unit, along with all documentation pertaining to the case. The Field Audit area supervisor assigns the case to an auditor.
- 5) Documentation is reviewed by the auditor assigned. If needed, an audit is scheduled and an audit letter is mailed to the employer confirming the audit date, time and location. Enclosed with the letter is a brochure that explains the audit process and the records needed for the audit.
- 6) The auditor conducts a financial audit at either the company's business location or at the office of its financial advisor. A financial audit is conducted in compliance with Chapter Seven of the USDOL Tax Performance System as mandated by federal law.

SUTA Dumping Detection and Enforcement Procedure

- 7) After the audit is complete, a closing conference is held with the employer at which time the auditor will provide a letter that outlines the steps for the remainder of the process.
- 8) The results of the audit and/or investigation are reviewed by the field audit area supervisor to assure quality and completeness.
- 9) The information is presented to appropriate UIA staff and the Labor Division, Unemployment Unit of the Office of Attorney General for review. After a thorough review, a decision is made whether SUTA Dumping has occurred. Additional information may be required and the auditor will follow up with the employer to collect the information needed.
- 10) In cases where SUTA Dumping is suspected, the employer is offered the opportunity to schedule a meeting with the Agency to discuss the case prior to issuance of a Determination. This meeting must occur within 10 days of the date of the letter. This meeting is designed to discuss the details of the case and to give the employer the opportunity to provide additional information or a further explanation to be considered.
- 11) Following the meeting, the Agency prepares a Determination that details its decision which is mailed to the employer's address of record.
- 12) By law, the employer has 30 days to file a written protest to the Determination. If a protest is not received timely, the tax loss, interest and, as appropriate, penalty with interest on penalty will be posted to the employer's account.
- 13) If the employer protests the Determination in a timely manner, the written information in the protest will be considered. Following a review of the protest, a Redetermination is issued which affirms, modifies, or reverses the Determination. An employer may appeal the Redetermination to the State Office of Administrative Hearings and Rules (SOAR) for a full evidentiary hearing before an Administrative Law Judge (ALJ).

SUTA Dumping Detection and Enforcement Procedure

- 14) The decision of the Administrative Law Judge may be appealed by the aggrieved party to the MES Board of Review or upon stipulation by the employer and the Agency, the matter may be appealed directly to circuit court.
- 15) If either party believes that the decision of the MES Board of review is incorrect, the case may be appealed to the circuit court for review. A decision of the circuit court may be further appealed, by leave, to the Michigan Court of Appeals, and ultimately, by leave, to the Michigan Supreme Court.
- 16) After the appeal process has been exhausted or when a settlement has been reached, if applicable, adjustments will be made to the employer account.

If at any time the employer refuses or fails to comply with the Agency's audit or requests for information (pursuant to Section 9 of the MES Act and Rule 190 of the Administrative Rules), the following steps shall occur:

- a. The Auditor contacts the employer (via letter, email, phone call, or in person) and requests additional information.
- b. If the information is not provided within five business days, a letter is mailed requesting the information within ten business days.
- c. If the employer still fails to comply, a subpoena is issued (pursuant to Section 9 of the MES Act).
- d. If the employer does not comply with the subpoena, the Labor Division, Unemployment Unit of the Office of Attorney General issues a demand letter citing the subpoena and requiring the requested information due within ten business days.
- e. If the employer does not comply with the demand letter, a civil action in circuit court to enforce the subpoena (pursuant to Section 9) is filed by the Attorney General.

(ii) The number of SUTA dumping investigations opened during the year.

As of December 31, 2005, there have been 162 SUTA Dumping investigations¹, involving 980 employers, opened since September 1, 2004, citing violations of Sections 22(b)², 54b, and/or Section 54(b) of the Michigan Employment Security (MES) Act. These are sections of the law in effect before July 1, 2005. There have been no investigations citing violations of Section 22b of the MES Act that took effect July 1, 2005, because the data from the quarterly tax reports was not available until the end of the third quarter. The Agency received its first referral for possible violations of Section 22b in January 2006.

(iii) The average length of time to resolve a SUTA dumping investigation and the number of investigations pending for more than 6 months and for more than 1 year.

The average length of time to resolve a SUTA Dumping investigation is 6 months. There have been 22 investigations pending for more than 6 months and 25 investigations pending for more than 1 year.

Please note that in calculating the length of time to resolve a SUTA Dumping investigation, the beginning of the period is the date the investigation began, and the end of the period is the date the Determination³ was issued. An appeal process is available to the parties pursuant to the MES Act, and includes both administrative and judicial appeal process rights and is not factored into this timeline.

(iv) The number of cases brought before an administrative law judge or the board of review and the agency's success rate in those cases.

As of December 31, 2005, there has been one case brought before an Administrative Law Judge (ALJ) and no cases have been brought before the Board of Review. In the one case decided by an ALJ, the ALJ found SUTA Dumping had occurred and found negligence by the employer's business advisor, but was unable to conclude the employer or their advisors had acted fraudulently.

¹ Please note, a case opened for investigation may involve one or more employers.

² Section 22(b) is a subsection of Section 22, and existed both before and after the amendment to the Act effective July 1, 2005; it concerns transfers of business and unemployment experience. It should not be confused with Section 22b, which is a separate Section of the Act that became effective July 1, 2005.

³ A Determination is a formal, written decision that includes the findings of the Agency.

- (v) The amount of money recovered as a result of implementing the provisions of this section.**

There has been no money recovered under Section 22b, which took effect July 1, 2005. However, under Section 22(b) of the MES Act that existed prior to July 1, 2005, the Agency has identified tax losses amounting to \$37,772,193.57 from all cases where Determinations have been issued.

- (vi) The amount of the balance or deficit in the unemployment compensation fund.**

As of December 31, 2005, the balance for Michigan's Unemployment Insurance Agency's Trust Fund is \$401 million.

- (vii) The estimated fiscal impact of SUTA dumping on the unemployment compensation fund balance and the factual basis for the estimate.**

The Unemployment Insurance Agency estimates the fiscal impact of SUTA Dumping on the unemployment compensation fund balance for the calendar year 2006 will be \$63.3 million. This estimate is based on findings on actual cases reviewed over the last six-month period of calendar year 2005.

- (viii) The number of full-time employees assigned to, and the number of employee hours devoted to, SUTA dumping prevention, investigation, and remediation.**

There are eleven full-time employees assigned to the SUTA Dumping Unit. In addition, other employees (such as Field Audit, Tax Office, or Office of Attorney General staff) are assigned to SUTA Dumping cases based on operational need. The number of employee-hours devoted to SUTA dumping prevention, investigation, and remediation from January 1, 2005 to December 31, 2005 is approximately 38,848 hours.

- (ix) The number of SUTA dumping investigations that involved the transfer of employees to or from an employee leasing company.**

Of the 162 investigations initiated, 56 investigations involved the transfer of employees to or from 423 employee leasing companies.

- (x) The number of investigations in which an employee leasing company was found to have participated in SUTA dumping.**

To date, 214 employee leasing companies investigated in 54 cases were found to have participated in SUTA Dumping.

- (xi) The number of employee leasing companies operating in Michigan.**

According to the Department of Labor and Economic Growth (DLEG), Bureau of Labor Market Information and Strategic Initiatives, as of December 31, 2005, there were 1,420 companies in Michigan identifying themselves as employee leasing companies.